

REMARKS

In complete response to the Requirement for Restriction or Election, mailed June 21, 2005, Applicants provisionally elect, albeit with traverse, to prosecute the claims of Specie (i), namely Claims 2-7 and 11.

Reconsideration of the Restriction/Election Requirement is respectfully requested. First of all, in the Applicant's view, there are a number of deficiencies. Claim 1 has not been considered in this Office Action. The Examiner did not even identified whether claim 1 was generic or whether claim 1 was also subjected to restriction.

Furthermore, The Examiner uses PCT Rule 13.1 to allege that there is a lack of unity of invention. This application was already examined with respect to PCT Rule 13.1 during the International Phase. During that phase, the International Examiner did not even raise the lack of unity of invention, as this application was considered to contain only one invention. It seems that the same Rule, namely PCT 13.1, should have the same effect regardless of the country where the application is examined.

Moreover, the Examiner alleges a lack of unity of invention, but does not even provide any justification for this objection. In the International Phase, when an Examiner raises a lack of unity of invention, the Examiner at least provides a reason of why there is a lack of unity, basing the reason on an alleged common general inventive concept linking of the claims together and proving that said common general inventive concept was known in the art. In the instant application, the Examiner did not even consider what such general common inventive concept could be. The closer the Examiner gets with the

common general inventive concept is discussed on page 4 of the Office Action where the Examiner alleges that

“the species lack the same or corresponding special technical features for the following reasons: the sterilization and assay method and containers are not unique to the use of the claimed invention but can be used (alone or in various combinations) in other functions entirely unrelated to evaluating prion protein degradation”.

In this respect, the entire application relates to a prion sterilization process, a method for evaluating prion sterilization or the use of prion markers to be used in a sterilization process, the common denominator or common general inventive concept being the prion sterilization indicator that is being used in each and every claim. Nowhere in the Office Action is there a negation of the inventive concept of using a prion sterilization indicator. Therefore, in view of the above, it is respectfully requested that all of the groups of invention be rejoined and that all the claims be examined.

In the present application (being a U.S. national phase of an International application), the unity of invention criteria should only be accessed using PCT Rule 13.1, and not the U.S. Rules for restriction requirements. It has now been proven above that according to Rule 13.1 PCT, the application had unity of invention, and confirmation to that effect with the rejoining of all the claims is solicited.

Withdrawal of the Restriction Requirement and examination of claims 1 to 13 on the merits are therefore respectfully requested.

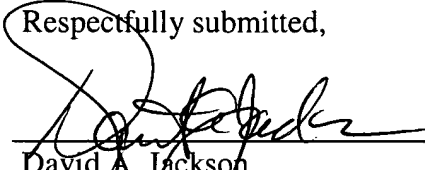
As the unextended period for response expired on July 21, 2005, and as the first month extension of the period expires August 21, 2005, a Sunday, the filing of the within

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response on this date with an accompanying Request for a One-Month Extension, and the requisite fee of \$60.00 (for a small entity) is believed to be timely and responsive.

In the event that there are any questions concerning this response, or the application in general, the Examiner is respectfully urged to telephone the undersigned so that prosecution of the application may be expedited.

Date: Aug. 22, 2005

Respectfully submitted,

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